

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 167 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 - No

ANAGRAM FINANCE LIMITED

and

THE INDUSTRIAL CREDIT AND INVESTMENT
CORPORATION OF INDIA LTD.

Appearance:

Mr S.N. Soparkar i/b
A & M & S SHROFF CO. for Petitioner
MR JAYANT PATEL for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 16/09/98

ORAL JUDGEMENT

This petition is filed by Anagram Finance Limited under Sections 391 and 394 of the Companies Act, 1956 with a prayer that the amalgamation of Anagram Finance Limited (hereinafter referred to as "the transferor Company") with the Industrial Credit and Investment

Corporation of India Ltd. (hereinafter referred as "ICICI or transferee Company") as per the scheme of amalgamation at Annexure "E" to the petition be sanctioned with effect from 1.4.1998 so as to be binding on the petitioner-Company, all the members and the creditors and employees of the petitioner-Company and the transferee Company.

2. Since the Registered Office of the transferee Company-ICICI is at Bombay, Mr Soparkar informs that the transferee Company has filed similar petition in the Bombay High Court.

3. In Company Application No. 198 of 1998, this Court had passed an order dated 15.6.1998. The Court had given directions for convening and holding separate meetings of 15.25% Redeemable Preference Shareholders, 13.25% Redeemable Preference Shareholders and equity shareholders of the transferor Company on 27.7.1998. The Chairman of the meetings Mr Sanjay Lalbhai has filed his report dated 28.7.1998. The report is produced at Annexure "H" to the petition.

While all the preference shareholders unanimously voted in favour of the scheme of amalgamation; at the meeting of the equity shareholders, - whose wishes were ascertained by voting on poll - 542 equity shareholders holding 1,92,15,871 equity shares voted in favour of the scheme while 3 equity shareholders holding only 1416 equity shares voted against the scheme. The votes of 11 equity shareholders holding 5456 equity shares were invalid.

4. It is further stated in the present petition filed by the transferor Company that there is no likelihood that any creditor of the transferor Company will lose or be prejudiced as a result of the scheme being passed since no sacrifice or waiver is at all called for from them nor are their rights sought to be modified in any manner. The latest audited accounts of the transferee Company indicates that the transferee Company is in a solvent position and the transferee Company being stronger would be able to meet liabilities as they arise.

5. The transferor Company has stated that the scheme of amalgamation will be for the benefit of the shareholders and the creditors of the transferor Company and the transferee Company.

6. The general notice about the admission of this

petition and the hearing was published in two daily newspapers. No objection has been received pursuant to the said public notice.

7. In view of the fact that the transferor Company's preference shareholders have unanimously approved the scheme of amalgamation and the equity shareholders have by an overwhelming majority of more than 99% approved the scheme of amalgamation and in view of the report of the Official Liquidator dated 14.9.1998 accompanied by the report of M/s Gattani & Associates, Chartered Accountants to the effect that the affairs of the transferor Company have not been conducted in a manner prejudicial to the interest of its members or to public interest and also in view of the statement being made by Mr Jayant Patel, learned Standing Counsel for the Central Government on the basis of the letter dated 8.9.1998 from the Assistant Registrar of Companies, Gujarat based upon the letter dated 4.9.1998 from the Regional Director (Western Region) in the Ministry of Finance, Department of Company Affairs, Government of India, it appears to the Court that the scheme of amalgamation at Annexure "E" to the petition deserves to be sanctioned with effect from 1.4.1998 as prayed for.

8. Accordingly the scheme of amalgamation of the Anagram Finance Ltd. with the Industrial Investment Corporation of India Ltd. at Annexure "E" to the petition is sanctioned with effect from 1.4.1998. It is further ordered that the properties, rights and powers of the transferor Company be transferred to and vest in the transferee Company pursuant to Section 394(2) of the Act subject to all charges affecting the same and that all the liabilities, debts and obligations of the transferor Company be transferred to and become the liabilities and duties of the transferee Company with effect from 1.4.1998. All the proceedings pending by or against the transferor Company shall be continued by or against the transferee Company.

9. A certified copy of this order shall be delivered to the Registrar of Companies within 30 days after the date of this order by the transferor Company and on such copy being so delivered, the transferor Company shall stand dissolved and the Registrar of Companies shall place all documents relating to the transferor Company and registered with him on the file kept by him in relation to the transferee Company and the files relating to the said two Companies shall be consolidated accordingly.

10. Liberty to apply to any person interested for directions in the matter, if necessary.

11. The costs of this petition which are quantified at Rs.5,000/- (Rupees Five thousand only) shall be paid by the transferor Company to Mr. Jayant Patel, learned Standing Counsel for the Central Government.

The petition is accordingly disposed of.

Sd/-

September 16, 1998 (M.S. Shah, J.)